

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

GABRIEL ALFREDO ORTEGON-  
JIMENEZ,

Petitioner,

v.  
WARDEN,

Respondent.

Case No. 2:23-cv-01270-JDP (HC)

**ORDER**

DIRECTING THE CLERK OF COURT TO  
RANDOMLY ASSIGN A DISTRICT JUDGE  
TO THIS MATTER

**FINDINGS AND RECOMMENDATIONS**

THAT THE PETITION BE DISMISSED  
WITHOUT PREJUDICE FOR FAILURE TO  
PROSECUTE AND FAILURE TO COMPLY  
WITH COURT ORDERS AND THAT  
RESPONDENT'S MOTION TO DISMISS BE  
DENIED AS MOOT

ECF No. 10

OBJECTIONS DUE WITHIN FOURTEEN  
DAYS

On October 19, 2023, respondent filed a motion to dismiss. ECF No. 10. On November 27, 2023, after petitioner failed to file an opposition or statement of non-opposition within twenty-one days, I ordered him to show cause within twenty-one days why this action should not be dismissed for his failure to prosecute. ECF No. 11. I notified him that if he wished to continue with this action, he must, within twenty-one days, file an opposition or statement of non-opposition to respondent's motion to dismiss. *Id.* I also warned him that failure to comply with

1 that order would result in a recommendation that this action be dismissed. *Id.*

2 The deadline has passed, and petitioner has neither filed a response to the motion to  
3 dismiss nor otherwise responded to the November 27, 2023 order.

4 Accordingly, it is hereby ORDERED that the Clerk of Court shall randomly assign a  
5 United States District Judge to this case.

6 Further, it is hereby RECOMMENDED that:

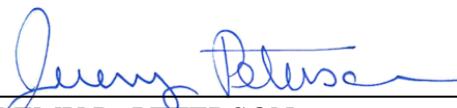
7 1. This action be dismissed without prejudice for failure to prosecute and failure to  
8 comply with court orders, for the reasons set forth in the November 27, 2023 order.  
9 2. Respondent's motion to dismiss, ECF No. 10, be denied as moot.  
10 3. The Clerk of Court be directed to close the case.

11 These findings and recommendations are submitted to the United States District Judge  
12 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of  
13 service of these findings and recommendations, any party may file written objections with the  
14 court and serve a copy on all parties. Such document should be captioned "Objections to  
15 Magistrate Judge's Findings and Recommendations." Any response shall be served and filed  
16 within fourteen days of service of the objections. The parties are advised that failure to file  
17 objections within the specified time may waive the right to appeal the District Court's order.

18 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.  
19 1991).

20  
21 IT IS SO ORDERED.

22 Dated: January 3, 2024

  
23 JEREMY D. PETERSON  
24 UNITED STATES MAGISTRATE JUDGE  
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